

**TO: THE CHIEF EXECUTIVE OR MANAGING OFFICER OF ALL LOUISIANA  
STATE-CHARTERED CREDIT UNIONS**

**FROM: SID SEYMOUR, CHIEF EXAMINER**

**DATE: JUNE 1, 2007**

**RE: LOUISIANA OFFICE OF FINANCIAL INSTITUTIONS (OFI) - UPDATE**

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**Overall Financial Condition** -- A vast majority of state-chartered credit unions remain in sound financial condition. As of December 31, 2006, there were 52 state-chartered credit unions in Louisiana. As of December 31, 2006, 92% had a composite CAMEL rating of 1 or 2, compared to 85% as of December 31, 2005. Credit unions experienced upgrades primarily in the asset quality, management, and earnings components, and downgrades primarily in the capital component. While examination results for those credit unions significantly affected by Hurricanes Katrina and Rita continue to be generally favorable, the short-term economic impact on earnings and liquidity (as a result of the significant outflow of hurricane-related funds) is an area of concern that we will continue to monitor very closely.

**Preparations for the Upcoming Hurricane Season** – In OFI Bulletin **BL-02b-2006 (CU)**, dated June 21, 2006, we requested and have compiled primary and secondary emergency contact information for your disaster recovery team that will only be used in the event that we have to deal with another wide-area disaster. The disaster recovery team is expected to maintain emergency contact information for the board and senior management. Please notify this office immediately if your disaster recovery team information has changed from last year. If you have any changes or questions, please contact Executive Staff Officer Donna Montagnino at (225) 922-2627 or by email at [dmontagnino@ofi.louisiana.gov](mailto:dmontagnino@ofi.louisiana.gov).

As mentioned previously, OFI has been assigned to several emergency support functions within the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP). In the event that we have to deal with another wide-area disaster, we will receive information through the GOHSEP. This information will then be shared with the industry through frequent conference calls, emails, and postings to our website at [www.ofi.louisiana.gov](http://www.ofi.louisiana.gov). We are currently participating in a series of Hurricane Preparation Meetings across the southern portions of the state and will send out updated information very shortly.

In the meantime, you are reminded that every parish is different in their precise requirements. While all parishes have a sheriff's office and an emergency preparedness office, we have found that they are entirely different agencies, often run by different people, and may have different requirements. We recommend that all credit unions contact the sheriff's and emergency preparedness offices for every parish in which you have a location or that you would need to enter to get to a location, maintain a contact name and phone number for each, and find out how to get on their list of responders that are allowed to re-enter after the area has been declared safe for critical businesses to return.

You need to be conservative in the number of employees that you request permission for re-entry and ensure that those individuals deal specifically with business pertaining to the credit union. Every person should have the necessary credentials or the entire vehicle has a chance of being denied entry. If you find that your parish does not have specific requirements for re-entry, we would suggest that, a minimum, the following credentials be maintained:

- A valid driver's license
- A credit union ID with picture [NOTE: If you are not comfortable providing non-credit union employees, such as vendors or contract workers, with a credit union ID, these individuals may get an InfraGard ID through the FBI. A website with more information is [www.infragard.net](http://www.infragard.net).]
- Letter on credit union letterhead that identifies the business purpose for each employee's re-entry
- Letter on credit union letterhead and with identifying numbers for car that authorizes that vehicle as a critical infrastructure vehicle and names the specific business purpose to re-enter

If your parish has specific requirements, of course, you would have to abide by its requirements. Employees who re-enter a devastated area should be reminded that services such as electricity, phone, water, food, gasoline, supplies, security, or hospital/emergency services may be limited or non-existent; therefore, they should be able to sustain themselves and not expect to rely on the emergency workers who are trying to get the area ready for the general public to return. In the aftermath of Hurricanes Katrina and Rita, in some cases, gasoline and diesel fuel were confiscated by authorities when financial institutions were trying to truck it in for their generators. Also, security for returning employees should be a high priority.

If you have not already done so, you are again encouraged to review the Next Generation Network's V.Point Balance File Authorization (NGN V.Point BFA) program offered by the CU Cooperative Branching, LLC (CUCB) / Credit Union Service Corporation (CUSC). NGN V.Point BFA is designed to ensure that a credit union can continue to serve its members through the CUSC Next Generation Network in emergency situations without the expense of maintaining the real-time connection. For more information, you can contact either Kim Chiasson at (225) 292-4166 or Elida Doiron at (225) 293-5946 with the Louisiana Shared Branching Network Office. Please contact me directly at (225) 925-4675 or by email at [sseymour@ofi.louisiana.gov](mailto:sseymour@ofi.louisiana.gov) with any questions.

**2007 Legislative Fiscal Session** – While OFI is tracking a number of House and Senate Bills introduced in the current Legislative Fiscal Session that may have a direct or indirect impact on your industries, our legislative package included only three bills. One bill in particular, HB 314 that was introduced by Representative Bruce, establishes an online database for our Residential Mortgage Lending Program that will greatly assist state agencies nationwide in detecting and preventing mortgage loan fraud. If you want more information about this online database, please contact Deputy Chief Examiner Darin Domingue at (225) 922-2596 or by email at [ddomingue@ofi.louisiana.gov](mailto:ddomingue@ofi.louisiana.gov). The remaining two bills are intended to address specific housekeeping issues. Eventually, the enrolled bills will be available on the Legislature's website at: [www.legis.state.la.us](http://www.legis.state.la.us). Please contact General Counsel Sue Rouprich at (225) 922-1028 or by email at [srouprich@ofi.louisiana.gov](mailto:srouprich@ofi.louisiana.gov) with any questions.

**Proposed Residential Group Common Bonds and Associational Groups** – The OFI published a Notice of Intent of Rule Making (Notice) regarding Residential Group Common Bonds and Associational Groups in the **November 20, 2006**, Louisiana Register. The proposed rule is intended to provide guidance regarding residential and associational group common bonds which are authorized, but not defined, in the Louisiana Credit Union Law. We received six comment letters on the proposed rule. Following a review of the recommendations contained in the comment letters, the Commissioner decided to make the following changes to original proposal. First, we will be deleting the definition of immediate family since state-chartered credit unions are allowed to define this term in their Bylaws. Second, we will be expanding the definition of low income area to make it more consistent with the criteria currently being used by the National Credit Union Administration (NCUA) in this regard.

Since these changes were considered substantive, we were required to publish a Public Hearing Notice in the “Potpourri Section” of the **April 20, 2006**, Louisiana Register in order to give all interested parties another opportunity to review and comment on the revised proposal. The public hearing is scheduled for **June 20, 2007**, at our Main Office in Baton Rouge, LA. We will also be required to submit a summary of all the comments, along with our responses, to the Legislative Oversight Committees. The revised proposal should become final on **July 20, 2007**.

We are hopeful that the geographic expansion authority in the proposed rule, coupled with the ability to **retain** your existing field of membership, the authority to establish maximum interest rates that **can** exceed those of federally-chartered credit unions, the benefit of local supervision, OFI’s nationally-recognized accreditation through the National Association of State Credit Union Supervisors (NASCUS), and broad parity statutes, will improve the attractiveness of the state charter. Please contact Deputy Chief Examiner John Fields at (225) 922-0633, [jfields@ofi.louisiana.gov](mailto:jfields@ofi.louisiana.gov) with any questions.

**Unrelated Business Income Tax Update** – For more than a decade, the state credit union system, through the National Association of State Credit Union Supervisors (NASCUS), has been challenging the Internal Revenue Service (IRS) on its interpretation of what income, if any, earned by state-chartered credit unions should be subject to federal taxation under the provisions of the Internal Revenue Code (IRC) Section 511-513. This section declares that certain tax-exempt organizations under IRC Section 501(c) must pay federal income tax on net income realized from sources that are not substantially related to the tax exempt purpose of the organization. Such income is deemed “unrelated business income” and, therefore, taxable.

In March 2007, the Internal Revenue Service (IRS) published five (5) separate Technical Advice Memoranda (TAMs) regarding the products/services provided by state-chartered credit unions that it believes should be subject to federal taxation. While we are of the opinion that these products/services are consistent with credit unions’ tax exempt purposes, the IRS has determined that net income derived from the following products/services should be subject to federal taxation:

- Credit life and disability insurance
- Accidental death and dismemberment (AD&D) insurance
- Securities and investment products, including MEMBERS financial management services
- Car warranties
- Guaranteed auto protection (GAP) insurance, and
- Dental and cancer insurance.

However, the IRS has acknowledged that net income derived from the following products/services should not be subject to federal taxation:

- Sales of checks, and
- Collateral protection insurance

NASCUS anticipates that the IRS will issue about 20 more TAMs in 2007 to address some additional products. However, it is important to note that, due in large part to the efforts of NASCUS, the IRS has also reportedly determined that income derived from credit and debit card interchange fees, and ATM fees from members are part of the intrinsic operation of a state-chartered credit union and not subject to federal taxation. While the TAMs do not set a precedent for all state-chartered credit unions, they could indicate how an IRS auditor may treat another state-chartered credit union in this regard. Because products, services, and pricing structures are unique to individual credit unions, each credit union should work closely with its

CPA firm in making any decisions related to UBIT for 2006 and 2007.

You are reminded that appropriate expense allocation **will reduce** the amount of income that is subject to taxation. I am **enclosing** an excellent article, which first appeared in a NASCUS publication entitled “The Regulatory Crier,” written by Debbie Peters, CEO of Incol Credit Union, Old Forge, PA, entitled “Small Credit Union Manages UBIT.” The article encourages all state-chartered credit unions to be proactive with this issue and to start tracking the income and expenses associated with the products/services detailed above. Please contact Deputy Chief Examiner Fields if you want copies of the TAMs, or with any questions.

**Congressional Data Collection Initiative** – In 2006, the House Ways and Means Committee began looking into how consumers benefit from credit unions’ tax-exempt status. As a result, the NCUA collected this data in a representative sampling that included 448 federal credit unions nationwide and issued its report on November 15, 2006. The NCUA indicated the following regarding the data it collected:

- 60% of the membership in the average federal credit union has a median family income of less than \$60,000 annually
- 82% has less than \$75,000, and
- 96% has a median family income of less than \$100,000.

OFI participated in a similar initiative coordinated by NASCUS and collected data in order to prepare a similar report for the Committee on state-chartered credit unions. Five (5) state-chartered credit unions domiciled here in Louisiana were randomly selected to be included in the data collection initiative. The process included the use of a questionnaire and geocoding software to respond to questions concerning the following areas: income characteristics of members; executive compensation; unrelated business income; and CUSOs. We have completed the data collection process and submitted it to NASCUS for processing. NASCUS has set a goal to have its final report prepared for the Committee by June 30, 2007. Please contact Deputy Chief Examiner Fields with any questions.

**Information on the National Association of State Credit Union Supervisors’ (NASCUS) Website** – You are again encouraged to periodically check the NASCUS website at <http://www.nascus.org> for information and updates on the most current matters affecting state-chartered credit unions. The Regulatory Affairs Section (<http://www.nascus.org/regulatory.html>) contains details on proposed rules and requests for comments that may affect state-chartered credit unions. The Legislative Affairs Section (<http://www.nascus.org/legislative.html>) provides information and NASCUS’ commentary on proposed federal legislation that may affect state-chartered credit unions. Generally, NASCUS comments only on federal legislation that may affect the dual chartering system, state-chartered credit unions, share insurance requirements, or infringe upon state regulatory authority. Please contact Deputy Chief Examiner Fields with any questions regarding NASCUS, its website, accessing the information, or understanding the purpose and intent of the various issuances and/or proposals.

**Thank You** - Following a courageous fight with cancer, Deputy Commissioner Doris Gunn passed away in the company of her husband and three children on February 28, 2007. Please accept my heartfelt thanks for the tremendous outpouring of sympathy on her behalf. We will all miss her counsel, spirit, and joie de vivre.

**Closing Comments** - Please do not hesitate to contact me directly with any questions regarding the contents of this update. I look forward to seeing many of you at the upcoming Louisiana Credit Union League’s Annual Convention in August.